

SENATE BILL 418

Unofficial Copy
D4

2004 Regular Session
4r2430
CF 4r2429

By: **Senator Grosfeld**
Introduced and read first time: February 5, 2004
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 23, 2004

CHAPTER _____

1 AN ACT concerning

2 **Family Law - Property Disposition - Transfer of ~~Tangible~~ Family Use**
3 **Personal Property**

4 FOR the purpose of authorizing a court, in a proceeding for annulment or absolute
5 divorce, to transfer, subject to the consent of any lienholders, ownership of an
6 interest in ~~tangible family use~~ personal property from one or both parties to
7 either or both parties and to determine the terms of the transfer; altering
8 certain factors that the court is required to consider in making a certain
9 determination; providing for the application of this Act; making stylistic
10 changes; and generally relating to property disposition in annulment and
11 divorce.

12 BY repealing and reenacting, without amendments,
13 Article - Family Law
14 Section ~~8-201(d)~~, 8-202, 8-203, and 8-204(a)
15 Annotated Code of Maryland
16 (1999 Replacement Volume and 2003 Supplement)

17 BY repealing and reenacting, with amendments,
18 Article - Family Law
19 Section 8-205
20 Annotated Code of Maryland
21 (1999 Replacement Volume and 2003 Supplement)

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, That the Laws of Maryland read as follows:

1

Article - Family Law2 8-201.3 (d) (1) "Family use personal property" means tangible personal property:4 (i) acquired during the marriage;5 (ii) owned by 1 or both of the parties; and6 (iii) used primarily for family purposes.7 (2) "Family use personal property" includes:8 (i) motor vehicles;9 (ii) furniture;10 (iii) furnishings; and11 (iv) household appliances.12 (3) "Family use personal property" does not include property:13 (i) acquired by inheritance or gift from a third party; or14 (ii) excluded by valid agreement.15 8-202.16 (a) (1) When the court grants an annulment or a limited or absolute divorce,
17 the court may resolve any dispute between the parties with respect to the ownership
18 of personal property.19 (2) When the court grants an annulment or an absolute divorce, the
20 court may resolve any dispute between the parties with respect to the ownership of
21 real property.22 (3) Except as provided in § 8-205 of this subtitle, the court may not
23 transfer the ownership of personal or real property from 1 party to the other.24 (b) When the court determines the ownership of personal or real property, the
25 court may:26 (1) grant a decree that states what the ownership interest of each party
27 is; and28 (2) as to any property owned by both of the parties, order a partition or a
29 sale instead of partition and a division of the proceeds.

1 8-203.

2 (a) In a proceeding for an annulment or an absolute divorce, if there is a
3 dispute as to whether certain property is marital property, the court shall determine
4 which property is marital property:

5 (1) when the court grants an annulment or an absolute divorce;

6 (2) within 90 days after the court grants an annulment or divorce, if the
7 court expressly reserves in the annulment or divorce decree the power to make the
8 determination; or

9 (3) after the 90-day period if:

10 (i) the court expressly reserves in the annulment or divorce decree
11 the power to make the determination;

12 (ii) during the 90-day period, the court extends the time for making
13 the determination; and

14 (iii) the parties consent to the extension.

15 (b) In this subtitle, a military pension shall be considered in the same manner
16 as any other pension or retirement benefit.

17 8-204.

18 (a) Except as provided in subsection (b) of this section, the court shall
19 determine the value of all marital property.

20 8-205.

21 (a) (1) Subject to the provisions of subsection (b) of this section, after the
22 court determines which property is marital property, and the value of the marital
23 property, the court may transfer ownership of an interest in [a pension, retirement,
24 profit sharing, or deferred compensation plan from 1 party to either or both parties]
25 ~~PROPERTY DESCRIBED IN PARAGRAPH (2) OF THIS SUBSECTION~~, grant a monetary
26 award, or both, as an adjustment of the equities and rights of the parties concerning
27 marital property, whether or not alimony is awarded.

28 (2) THE COURT MAY TRANSFER OWNERSHIP OF AN INTEREST IN:

29 (I) A PENSION, RETIREMENT, PROFIT SHARING, OR DEFERRED
30 COMPENSATION PLAN, FROM ONE PARTY TO EITHER OR BOTH PARTIES; AND

31 (II) ~~TANGIBLE~~ SUBJECT TO THE CONSENT OF ANY LIENHOLDERS,
32 FAMILY USE PERSONAL PROPERTY, FROM ONE OR BOTH PARTIES TO EITHER OR
33 BOTH PARTIES.

34 (b) The court shall determine the amount and the method of payment of a
35 monetary award, or the terms of the transfer of the interest in [the pension,

1 retirement, profit sharing, or deferred compensation plan] PROPERTY DESCRIBED IN
2 SUBSECTION (A)(2) OF THIS SECTION, or both, after considering each of the following
3 factors:

- 4 (1) the contributions, monetary and nonmonetary, of each party to the
5 well-being of the family;
- 6 (2) the value of all property interests of each party;
- 7 (3) the economic circumstances of each party at the time the award is to
8 be made;
- 9 (4) the circumstances that contributed to the estrangement of the
10 parties;
- 11 (5) the duration of the marriage;
- 12 (6) the age of each party;
- 13 (7) the physical and mental condition of each party;
- 14 (8) how and when specific marital property or interest in [the pension,
15 retirement, profit sharing, or deferred compensation plan] PROPERTY DESCRIBED IN
16 SUBSECTION (A)(2) OF THIS SECTION, was acquired, including the effort expended by
17 each party in accumulating the marital property or the interest in [the pension,
18 retirement, profit sharing, or deferred compensation plan] PROPERTY DESCRIBED IN
19 SUBSECTION (A)(2) OF THIS SECTION, or both;
- 20 (9) the contribution by either party of property described in § 8-201(e)(3)
21 of this subtitle to the acquisition of real property held by the parties as tenants by the
22 entirety;
- 23 (10) any award of alimony and any award or other provision that the court
24 has made with respect to family use personal property or the family home; and
- 25 (11) any other factor that the court considers necessary or appropriate to
26 consider in order to arrive at a fair and equitable monetary award or transfer of an
27 interest in [the pension, retirement, profit sharing, or deferred compensation plan]
28 PROPERTY DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION, or both.

29 (c) The court may reduce to a judgment any monetary award made under this
30 section, to the extent that any part of the award is due and owing.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
32 construed to apply only prospectively to cases for annulment or divorce filed on after
33 the effective date of this Act.

34 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2004.

